



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/989,474

11/20/2001

Weihai Chen

MS1-2657US

3151

22801

7590

06/11/2008

LEE & HAYES PLLC

421 W RIVERSIDE AVENUE SUITE 500

SPOKANE, WA 99201

EXAMINER

DIVECHA, KAMAL B

ART UNIT

PAPER NUMBER

2151

MAIL DATE

DELIVERY MODE

06/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/989,474
Filing Date: November 20, 2001
Appellant(s): CHEN, WEIHAI

Scott K. Gallert
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/23/07 appealing from the Office action mailed 10/7/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Matheny et al., US 2002/0161883 A1, published on Oct. 31, 2002 and filed on Apr. 30, 2001.

Schlonski et al., US 2002/0196451 A1, published on Dec. 26, 2002 and filed on Mar. 28, 2002.

Dowling, US 6,636,499 B1, issued on Oct. 21, 2003 and filed on Dec. 2, 1999.

Branson et al., US 6,865,728 B1, issued on Mar. 8, 2005 and filed on May 13, 1999.

Das et al., US 2002/0026527 A1, published on Feb. 28, 2002 and filed on Apr. 12, 2001.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2, 4-5, 7-8, 11-12, 14-15, 17-18, 24-25, 27-28 and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Matheny et al. (hereinafter Matheny, Pub. No.: US 2002/0161883 A1).

As per claim 1, Matheny discloses a method for performing resource discovery in a network having multiple subnets and wherein inter-subnet discovery agents installed on nodes within the multiple subnets support inter-subnet resource discovery, the method comprising:

designating (i.e. selecting, configuring, implementing, allocating, etc.), within a first subnet, a first inter-subnet discovery agent on a first node as an active discovery agent (fig. 1, pg. 1 [0008-0010: allocating a network manager specially for initiation of discovery);

discovering (i.e. identifying), by the first inter-subnet discovery agent, active discovery agents on neighboring subnets in the network (pg. 1 [0010-0011], pg. 2 [0019-0021]); and

propagating (i.e. sending or passing or calling), by the first node containing the active discovery agent, an inter-subnet resource discovery search request to the active discovery agents on neighboring subnets (pg.1 [0009-0010], pg. 2 [0017-0021]).

As per claim 2, Matheny discloses the process wherein the resource discovery search request is a network device discovery request (pg. 2 [0017-0021]).

As per claim 4, Matheny discloses the process of receiving, by the first node containing the first active discovery agent, from a second node containing an active discovery agent on a neighboring subnet, information comprising a network address of the second node containing the active discovery agent and storing, by the first node, the information in a list identifying neighboring active discovery agents (configuration data includes network addresses, i.e. registration, pg. 2 [0017-0018]).

As per claim 5, Matheny discloses the process of receiving, by the first node containing the active discovery agent, a request to provide discovery information for a discoverable resource and in response performing, during the propagating step, the sub –steps of: passing the request to the active discovery agent on the first node; searching, by the active discovery agent on the first node, the list of neighboring active discovery agents; and issuing a search request identifying a resource discovery requester to at least one neighboring active discovery agent in the list identifying neighboring active discovery agents (pg. 1 [0012], pg. 2 [0017-0021]).

As per claim 7, Matheny discloses the process of storing and or copying (publishing) data for discovered machine into discovery document (fig. 5 item #504, pg. 2 [0020-0021]).

As per claim 8, Matheny discloses the process wherein the network management system comprises a set of device discovery agents (fig. 1 item #106), further comprising the step of:

determining, by the set of device discovery agents, discovery information for the discoverable resources present on the subnet (fig. 3 item #310 and #312).

As per claim 24, Matheny discloses a system for automating network-wide resource discovery in networks having multiple subnets: a set of inter-subnet discovery agents installed in nodes within the multiple subnets support inter-subnet resource discovery (pg. 1 block #8-11); and a first inter-subnet discovery agent on a first node designated as an active discovery agent (fig. 1 and pg. 1 paragraph #8-9), the first inter-subnet discovery agent including procedures for facilitating: discovering active discovery agents on neighboring subnets in the network (pg. 1 paragraph #10-11, pg. 2 paragraph #19, 21, 28); and propagating an inter-subnet resource discovery search request to the active discovery agents on neighboring subnets (pg.1 paragraph #9, 10, 12; fig. 2 item #204).

As per claims 11-12, 14-15, 17-18, 25, 27-28 and 30-31, they do not teach or further define over the limitations in claims 1-2, 4-5, 7-8 and 24. Therefore, claims 25, 27-28 and 30-31 are rejected for the same reasons as set forth in claims 1-2, 4-5, 7-8 and 24.

Claims 3, 6, 13, 16, 26 and 29 are rejected under **35 U.S.C. 103(a)** as being unpatentable over Matheny et al. (hereinafter Matheny, Pub. No.: US 2002/0161883 A1) in view of Schlonski et al. (hereinafter Schlonski, Pub. No.: US 2002/0196451 A1).

As per claim 3, Matheny does not explicitly disclose the process wherein network device discovery request is a request to identify printers in the network.

Schlonski from the same field of endeavor explicitly discloses the process wherein the network discovery request is to identify printers in the network (fig. 2 item #100, 102; pg. 2 paragraph 24-25).

Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Schlonski as stated above with Matheny in order to identify printers in the network.

One of ordinary skilled in the art would have been motivated because it would have been desirable to have a system by which the type of the newly-discovered printer is determined, and in response, a suitable configuration is sent to the printer (Schlonski, pg. 1 block# 9).

As per claim 6, Schlonski discloses the process of transmitting to the resource discovery requester a response including the resource information (fig. 2). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Schlonski as stated above with Matheny in order to transmit a response including the resource information. One of ordinary skilled in the art would have been motivated because of the same reasons as set forth in claim 3 above.

As per claims 13, 16, 26 and 29, they do not teach or further define over the limitations in claims 3 and 6. Therefore, claims 13, 16, 26 and 29 are rejected for the same reasons as set forth in claims 3 and 6.

Claims 9-10 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny et al. (hereinafter Matheny, Pub. No.: US 2002/0161883 A1) in view Dowling (U. S. Patent No. 6,636,499 B1).

As per claim 10, Matheny does not explicitly disclose the process of manually selecting the active discovery agent.

Dowling, from the same field of endeavor discloses the process wherein the user designates (read as selects) the commander (active discovery agent, col. 18 L10-18 and fig. 15 item #300 and col. 13 L44-47). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Dowling as stated above with Matheny in order to manually select the active discovery agent.

One of ordinary skilled in the art would have been motivated because once the discovery agent is enabled; it can use information known about the network topology to identify other network devices in the network (Dowling, col. 10 L40-51).

As per claim 9, neither of the references explicitly discloses the process of automatically selecting, as the active discovery agent from a set of installed discovery agents. But it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Dowling to automatically select the active discovery agent as it is well known in the art that any action and/or procedure that can be done manually by a network administrator can also be done automatically by a computer program. One of ordinary skilled in the art would have been motivated so that an efficient and reliable discovery system is obtained.

As per claims 19-20, they do not teach or further define over the limitations in claims 9-10. Therefore, claims 19-20 are rejected for the same reasons as set forth in claims 9-10.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Branson et al. (hereinafter Branson, U. S. Patent No. 6,865,728 B1) in view of Dowling (U. S. Patent No. 6,636,499 B1).

As per claim 21, Branson discloses a resource discovery framework (col. 4 L34-36, col. 6 L57 to col. 7 L47) for resource discovery in a network including multiple subnets and discoverable networked resources, the framework comprising: an active discovery agent designated for ones of the multiple subnets for identifying active discovery agents on neighboring subnets within the network (fig. 1, fig. 2 item #250 and #252, col. 2 L50-63, col. 10 L4-17, col. 14 L7-16); and a request propagation mechanism by which nodes containing the active discovery agents propagate an inter-subnet resource discovery search request to active discovery agents on neighboring subnets (fig. 3, col. 2 L50-63, col. 18 L15-67).

However, Branson does not explicitly disclose a selection mechanism for designating the active discovery agent within each subnet.

Dowling, from the same field of endeavor discloses the process wherein user designates the discovery agent as a commander (read as selection mechanism, fig. 2b and fig. 15 item #300 and col. 10 L29-67, col. 26 L10-26, col. 27 L7-21, col. 28 L7-27).

Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Dowling as stated above with Branson in order to designate the discovery agent within a subnet.

One of ordinary skilled in the art would have been motivated so that a single point of access used to configure and monitor all other agents in a network is obtained (Dowling, col. 10 L29-35) and further would have performed the requested function by the management console.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branson et al. (hereinafter Branson, U. S. Patent No. 6,865,728 B1) in view of Dowling (U. S. Patent No. 6,636,499 B1), and further in view of Das et al. (Pub. No.: US 2002/0026527 A1).

As per claim 22, Branson discloses a system wherein a list identifying discovery agents is maintained (fig. 1 and fig. 2 item #220), however Branson does not disclose a framework wherein a list is maintained by each discovery agent.

Das discloses a network comprising first and second network wherein second network includes two or more subnetworks wherein each subnetwork includes an associated subnet agent (see abstract and fig. 2).

Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Das to configure the subnet agent with the discovery framework agents of Branson in order to provide a discovery framework wherein a list identifying discovery agents are maintained in each discovery agent.

One of ordinary skilled in the art would have been motivated so that the list identifying discovery agents are distributed in a network for providing the list more efficiently.

As per claim 23, Branson discloses a system comprising a directory service in communication with the discovery agents in the network, the directory service including information corresponding to the lists maintained by the active agents (col. 6 L57 to col. 7 L17 and col. 10 L18-40).

(10) Response to Argument

Review of the Matheny reference as per appellant (Brief, pg. 10-12).

Appellant in the brief presents six reasoning in order to distinguish and/or acknowledge the teachings of Matheny.

In the fourth reasoning, appellant asserts that “Matheny does not designate whether discovery agents are active. The word active is not used in Matheny. Furthermore, the work designate in any...”

Appellant is attempting to show non-anticipation by focusing and looking for the similar terminologies in the prior art as used in the appellant’s claim and is disregarding its own specification.

In the fifth reasoning, appellant asserts that “nowhere does Matheny disclose that discovery agents have the capability to identify or discover another discovery agent” and in the sixth reasoning, appellant asserts that “Matheny does not disclose network managers recognize, identify or can discover one another”.

In response to appellant’s view of Matheny, it appears that appellant is either misinterpreting the rejection or the Matheny reference.

In short, Matheny discloses at least one network manager allocated to the network to initiate and coordinate the discovery operations through plurality of discovery agents. As shown below, network manager can be interpreted as the first inter-subnet discovery agent and discovery agents are interpreted as active discovery agents on the neighboring subnets.

The Examiner summarizes **various arguments raised by the appellant** and addresses replies individually.

In the Appeal Brief (hereinafter Brief), **appellant argues in substance that:**

a. Matheny does not disclose “**designating**, within a first subnet, a first inter-subnet discovery agent on a first node as an active discovery agent” as recited in claim 1 (Brief, pg. 16 [d], pg. 18-19 B (i) (first), pg. 21 [C] (i): first).

In response to argument [a], Examiner respectfully disagrees.

Independent claim 1 recites:

A method for performing resource discovery in a network having multiple subnets and wherein inter-subnet discovery agents installed on nodes within the multiple subnets support inter-subnet resource discovery, the method comprising:

designating, within a first subnet, a first inter-subnet discovery agent on a first node as an active discovery agent;

discovering, by the first inter-subnet discovery agent, active discovery agents on neighboring subnets in the network; and

propagating, by the first node containing the active discovery agent, an inter-subnet resource discovery search request to the active discovery agents on neighboring subnets.

Active Discovery Agent as per appellant

An ASDA (active simply discovery agent) is **established** in each of the subnets of the network, e.g. specification as filed, pg. 6 lines 1-5.

An ASDA is a specially designated SDA, established in each subnet, for... e.g. pg. 7 lines 6-10.

Claim Interpretation in light of appellant's specification

The term “designating” in light of specification is equivalent to and/or interpreted as establishing, selecting, installing and/or configuring, e.g. see ASDA above.

The term “discovery” in light of specification, is equivalent to and/or interpreted as determining and/or identifying, e.g. specification as filed, pg. 10 lines 28-31.

The term “propagating” in light of specification is equivalent to and/or interpreted as passing, sending, transmitting, etc., e.g. specification as filed, pg. 10 lines 28-31.

Matheny et al. US 2002/0161883 A1

Matheny discloses a networked computer system including a network management system capable of performing a coordinated network discovery operation using a number of discovery agents according to an embodiment. The network management system includes a network manager 104, which utilizes a number of different network discovery agents and aggregator agents to perform discovery operations, e.g. pg. 1 [0008], fig. 1 which is reproduced herein.

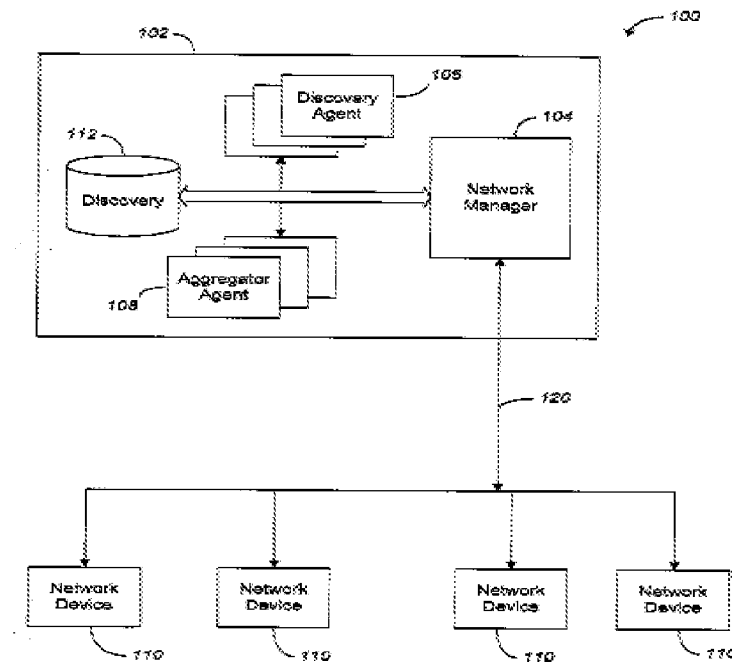


FIG. 1

In Matheny, network manager 104 may be a host computer that includes software for initiating and coordinating network discovery operations on devices in the network using a number of different agents. More than **one network manager may be allocated** to the network 100, e.g. pg. 1 [0010].

Network may be organized as a LAN, WAN, intranet, etc., and may include a number of smaller subnets, e.g. pg. 1 [0009].

Stated another way, in Matheny, at least **one network manager, i.e. a first inter-subnet discovery agent on first node, is allocated, i.e. specially designated, selected, configured and/or installed, to initiate and coordinate the network discovery operations**. That is, there is at least one network manager allocated, installed, configured and/or selected for the network discovery operations.

In summary, the allocated and/or configured network manager is equivalent to and/or interpreted as the first inter-subnet discovery agent because the network manager initiates and coordinates the discovery operations, and **it further discovers and/or identifies the discovery agents on the neighboring subnets**, e.g. pg. 2 [0019] which is reproduced herein.

[0019] FIG. 3 is a flowchart that describes a discovery operation 300 according to an embodiment. The discovery operation 300 is initiated by the network manager 104 receiving a discovery request (block 302). The discovery request may include requested data types and designate an address range(s) or subnet(s) for discovery. The discovery request may be compared to the available capabilities defined by the matrix derived from the registration files in the agent directory. The network manager 104 loops through files in a command directory, searching for XML files that match the address ranges or subnets identified for discovery (block 304). These files may include a high-level tag named <task> for easy recognition. The network manager may then create a command file for each identified discovery agent.

As such, Matheny does disclose “**designating**, within a first subnet, a first inter-subnet discovery agent on a first node as an active discovery agent” as set forth above.

It should also be noted that an active discovery agent is a specially designated discovery agent, e.g. e.g. pg. 7 lines 6-10.

Network manager as in Matheny is specially allocated for initiation and coordination of the discovery operations as set forth above.

In other words, the network manager is installed, allocated and/or configured on a first node as an active discovery agent for discovery operations.

b. Matheny fails to disclose “**discovering**, by the first inter-subnet discovery agent, active discovery agents on neighboring subnets in the network” as recited in claim 1 (Brief, pg. 13 [c]).

In response to argument [b], Examiner respectfully disagrees.

As set forth above, the term “discovering” is interpreted as identifying, determining, etc.

Matheny explicitly discloses a process of identifying, by the network manager, active, i.e. in working condition, functioning, etc., discovery agents on the neighboring subnets, by looping through the directory file and identifying the discovery agents, e.g. pg. 2 [0017-0020], reproduced herein.

Art Unit: 2146

[0017] FIG. 2 is a flowchart that describes a registration operation 200 according to an embodiment. An agent registers with the discovery manager by placing an XML file in an agent directory in the discovery database 112 (block 202). The registration file includes tags describing the attributes of the agent, calls that the agent supports, and any requirements the agent has, including dependencies. Each time a discovery operation 300 (described below) is requested, the network manager 104 reads through the agent directory and generates a matrix of available capabilities and existing dependencies (block 206) by parsing the registration files of the various agents.

[0018] Agents may be registered during installation or during an upgrade. The network system may be upgraded by adding new agents as "plug-ins" (block 208). The registration operation for the plug-in agents may be performed on the fly, without modifying the existing agents or discovery methodology. As plug-ins, the agents may be called as executables or loadable modules.

[0019] FIG. 3 is a flowchart that describes a discovery operation 300 according to an embodiment. The discovery operation 300 is initiated by the network manager 104 receiving a discovery request (block 302). The discovery request may include requested data types and designate an address range(s) or subnet(s) for discovery. The discovery request may be compared to the available capabilities defined by the matrix derived from the registration files in the agent directory. The network manager 104 loops through files in a command directory, searching for XML files that match the address ranges or subnets identified for discovery (block 304). These files may include a high-level tag named <task> for easy recognition. The network manager may then create a command file for each identified discovery agent.

[0020] As each file is found, a registered discovery agent may be called with the full path and filename of the file as a parameter (block 306). When the discovery agent begins to run, it may create a discovery directory in the same folder that contains the command file using a request identifier in the command file (block 308). For example, if the command file is "/somepath/command/cmd.xml" with a <requestid> tag with the value "1234567", the discovery agent creates the directory "/somepath/command/1234567".

[0021] The discovery agent 106 collects data from each device that it discovers (block 310), and places the collected data in a file created for that device in the discovery directory (block 312). The discovery agent may name the files in such a way as to avoid duplicates, for example, by using the device's IP address as a filename. Each file may be

After the discovery agents are discovered, they are called, wherein the discovery agent collects the data from each device it discovers.

The fact that the discovery agents can collect the data from the devices, by itself, shows the activeness of the discovery agents.

Therefore, Matheny also discloses “**discovering, i.e. identifying**, by the first inter-subnet discovery agent, active discovery agents on neighboring subnets in the network”.

c. Matheny does not disclose “**propagating**, by the first node containing the active discovery agent, an inter-subnet resource discovery search request to the active discovery agents on neighboring subnets, as recited in claim 1 (Brief, pg. 16 [d]: second, pg. 19: second, pg. 21 [C] (i): second).

In response to argument [c], Examiner respectfully disagrees.

As set forth in response to argument [b], after identifying and/or discovering the discovery agents, the network manager on a host node **calls the discovery agent** with the full path and filename of the file as a parameter.

When the discovery agent begins to run, it creates discovery directory and collects data from each device that it discovers and places the collected data in a file created, e.g. pg. 2 [0020-0021], which is reproduced above.

In other words, the network manager calls, i.e. passes and/or sends a search request, with filename as a parameter, which when received by the discovery agent starts collecting the data from the device it discovers.

Moreover, appellant explicitly admitted that network manager directs the discovery agents for discovering devices, e.g. Brief, pg. 10.

Therefore, Matheny also discloses “**propagating**, by the first node containing the active discovery agent, an inter-subnet resource discovery search request to the active discovery agents on neighboring subnets” as shown above.

d. Third, solely for the sake of argument, even if office intended to equate or merge the functions of Matheny's network managers and discovery agents to assert that Matheny anticipates the claims, appellant respectfully asserts that such an assumption contradicts the reference itself. **At no time thus far has the office expressly suggested that functions of network managers and discovery agents could be or should be equated or combined.** Furthermore, Matheny makes clear that the network managers and discovery agents are separate entities and teaches that they are not to be combined (Brief, pg. 17, pg. 20: third).

In response to argument [d], first, it is unclear what the appellant is attempting distinguish.

Secondly, Appellant explicitly states that “at no time thus far has the office expressly suggested that functions of network managers and discovery agents could be or should be **equated or combined**”.

Examiner agrees that network managers and discovery agents are separate entities, however, there is nothing in the appellant's claims and/or appellant's original specification that will prevent one of ordinary skilled in the art to interpret the network managers as in Matheny as

the first inter-subnet discovery agent on a first node as an active discovery agent and discovery agents as in Matheny as the active discovery agents on neighboring subnets.

In fact, the network managers are very well known in the art. Managers of computer networks may use a variety of management tools to manage a network, e.g. Matheny, pg. 1 [0001]: Background.

One such management tool includes Simple Network Management Protocol (SNMP).

Technically, this subject matter will encourage and/or enables one of ordinary skilled in the art to interpret the network manager as a first inter-subnet discovery agent for initiating and coordinating discovery operations.

Moreover, as set forth above, the network and/or discovery manager initiates and coordinates discovery and further identifies and/or discovers the active discovery agents as shown above. In fact, Matheny calls a network manager as discovery manager, e.g. pg. 2 [0017], because it is capable of discovering and/or identifying the discovery agents.

Therefore, it would be technically and/or logically be proper to interpret a network/discover manager as a first inter-subnet discovery agent.

e. Schlonski fails to cure deficiencies of Matheny (Brief, pg. 23 [A]).

In response to argument [e], Examiner disagrees for the same reasons as set forth in response to arguments [a-d].

f. Dowling fails to cure deficiencies of Matheny (Brief, pg. 26 [A]).

In response to argument [f], Examiner disagrees for the same reasons as set forth in response to arguments [a-d].

g. Branson does not teach or suggest “a resource discovery framework for resource discovery embodied in a computer-readable medium...”, the framework comprising "a selection mechanism for designating the active discovery agent within each subnet", as recited in claim 21 (Brief, pg. 30-33). Specifically, Dowling fails to teach or suggest "a resource discovery..." Dowling still fails to provide any sort of selection mechanism that is part of a resource discovery framework embodied in a computer readable medium (Brief, pg. 32-35).

In response to argument [g], Examiner respectfully disagrees.

Independent claim 21 recites:

A resource discovery framework for resource discovery embodied in a computer-readable medium in a network including multiple subnets and discoverable networked resources, the framework comprising:
an active discovery agent designated for ones of the multiple subnets for identifying active discovery agents on neighboring subnets within the network;
a selection mechanism for designating the active discovery agent within each subnet; and
a request propagation mechanism by which nodes containing the active discovery agents propagate an inter-subnet resource discovery search request to active discovery agents on neighboring subnets.

Active Discovery Agent as per appellant

An ASDA (active simply discovery agent) is **established** in each of the subnets of the network, e.g. specification as filed, pg. 6 lines 1-5.

An ASDA is a specially designated SDA, established in each subnet, for... e.g. pg. 7 lines 6-10.

Selection Mechanism as per appellant's specification

The selection of an ASDA is accomplished by either manual assignment or automatic selection, e.g. pg. 11 lines 8-16.

Claim Analysis

First, the claim fails to disclose “the resource discovery **framework embodied** in a computer -readable medium”.

It should also be noted that a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Secondly, in light of appellant's specification, the selection mechanism can be accomplished by either a **manual assignment** or automatic assignment, e.g. pg. 11 lines 8-16.

Dowling US 6,636,499 B1

In Dowling, although the user must configure a switch to be the cluster commander, the configuration is done via the **software interfaces and/or management software resident** on a computer-readable medium, e.g. col. 9 L30-57, col. 10 L29-56.

Moreover, in Dowling, “the selection mechanism for...” is embodied in computer-readable medium, which can be evidenced in the following claims:

Art Unit: 2146

15. An apparatus for configuring a plurality of network devices into a single cluster capable of being managed via one of the network devices, comprising:

- means for receiving a command designating one of the network devices as the cluster commander device;
- means for receiving a command designating the remaining network devices as candidate devices;
- means for receiving discovery packets at the cluster commander device from each of the candidate device;
- means for determining whether each of the candidate device is qualified to join the cluster by applying a set of qualification rules, the qualification including that the candidate device is not an active member of another cluster; and
- means for presenting a list of the candidate devices qualified to join the cluster to a user.

27. An apparatus for configuring a plurality of network devices into a single cluster capable of being managed via one of the network devices, comprising:

- logic for designating one of the network devices as a cluster commander device;
- logic for designating the remaining network devices as candidate devices;
- logic for receiving discovery packets at the cluster commander device from each of the candidate devices;
- qualification rules for determining whether each of the candidate devices is qualified to join the cluster, the qualification including that the candidate device is not an active member of another cluster; and
- logic for generating a list of the candidate switches qualified to join the cluster for display to a user.

35. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for configuring a plurality of network devices into a single cluster capable of being managed via one of the network devices, the method comprising:

- receiving a command designating one of the network devices as the cluster commander device;
- receiving a command designating the remaining network devices as candidate devices;
- receiving discovery packets at the cluster commander device from each of the candidate devices;
- determining whether each of the candidate devices is qualified to join the cluster by applying a set of qualification rules, the qualification including that the candidate device is not an active member of another cluster; and
- presenting a list of the candidate devices qualified to join the cluster to a user.

Clearly, claims 15, 35 and 27 discloses a “selection mechanism for designating the active discovery agent, i.e. designating the switch that discovers other devices as active, i.e. working, commander device...” which is and/or capable of being part of resource discovery framework embodied on a program storage device.

As such, the combination of Branson and Dowling explicitly discloses “a resource discovery framework for resource discovery embodied in a computer-readable medium...”, the framework comprising “a selection mechanism for designating the active discovery agent within each subnet...”.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kamal Divecha
Art Unit 2151
/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151

Conferees:

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2146